

**ZONING BOARD OF ADJUSTMENT
MINUTES
JANUARY 7, 2003
(Approved as written 2/11/03)**

PRESENT: Forrest Esenwine, Chairman; Terry Knowles, Vice Chairperson; Jack Dearborn; Leon Methot; June Purington.

GUESTS: Everett Stone, Code Enforcement Officer; Craig Knowles; Ginger Esenwine

I. CALL TO ORDER:

Chairman Forrest Esenwine called this meeting to order at the Weare Town Office at 7:35 PM.

II. REQUEST FOR REHEARING:

Case #6602 Town of Weare-CEO (Everett Stone)
Administrative Appeal

Applicant is alleging that an error was made by the Board of Selectmen regarding the expansion of the Thibeault Corporation gravel permit without first receiving a special exception as required by the zoning ordinance.

Tax Map 409-104 Clough Park Road

The board discussed the request for rehearing from Attorney Bussiere on behalf of Thibeault Corporation. Jack Dearborn stated that before the board goes off and reads this long request, he wants to know if any of them apply. Mr. Dearborn continued, we were basing our judgement on whether the test offered by our attorney in the past, which basically is the RSA's for the gravel in a letter. The question on hand is whether that test was met or not and not whether he comes in with a whole bunch of information that was not part of the meeting. This maybe very germane to be given to the Selectmen for the next hearing to get their positions straight but it is not necessarily germane to us to hear the case for the Selectmen.

Leon Methot stated that the only rehearing that this board can do is whether the Selectmen heard and went through the procedure as required. Mr. Dearborn responded that yes, if when we read this request we need to see where Mr. Bussiere can show us in the Selectmen's minutes that in fact they clearly did do that function.

Leon Methot stated that one of the issues in the request is a procedural error that the Board made. Terry Knowles agreed with Mr. Methot. Mr. Dearborn asked how was that.

Mrs. Knowles stated that the basis of Mr. Bussiere's complaint against the Board is that the board had no authority first of all to even take a look at this matter. Ms. Knowles read from the request, "the ZBA has no authority to initiate appeals to itself. That the ZBA in essence fostered an administrative appeal which was in fact filed by Everett W. Stone, Code Enforcement Officer." They're claiming that we influenced the Code Enforcement Officer to file bring an appeal in front of this board.

Mr. Dearborn asked, "how did we do that?"

Mr. Methot responded, "he cites a October 1, 2002 meeting in which the board generically spoke of the issue. There was a proposed letter to go out to the Selectmen, on behalf of the board, but we as a board rejected that and said that anybody who needed to appeal had to be other than the ZBA."

Mr. Dearborn stated that his point made was, he doesn't want to hear a case without having it be a variance, administrative appeal or special exception, so the question is, we took no action on it and that was the proper thing to do. So, where is it that the board, why are we guilty on that?

Mrs. Knowles responded, she thought that what Attorney Bussiere is doing is challenging this Board's authority to question the decision of the Selectmen at all.

Mr. Methot stated that at the beginning of his letter questions this Board as a whole and later on it questions whether we have the ability to hear it.

Mr. Dearborn responded, "you are very much correct. Now that can be rendered really simple, we will just table it tonight and ask to meet with our attorney, so we have a position."

Leon Methot moved to continue this rehearing request to February 4, 2003 to meeting with Bill Drescher, Town Counsel, Chairman Esenwine seconded the motion, unanimous vote in favor.

III. ADJOURNMENT:

As there was no further business to come before the board, Jack Dearborn moved to adjourn at 8:10 PM, Leon Methot seconded the motion, all in favor.

Respectfully submitted,
(from tapes)

Naomi L. Bolton
Land Use Coordinator